



November 8, 1999

Mr. Edward W. Dunbar
Dunbar, Armendariz, Crowley & Hegeman, L.L.P.
1700 North Stanton
El Paso, Texas 79902

OR99-3170

Dear Mr. Dunbar:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 128666.

The El Paso Community College District (the "district"), which you represent, received two requests for information related to the district's Truck Driver Training Program. The requestor seeks the following information:

1. student evaluations;
2. tally sheets and notes generated from student evaluations;
3. job description for instructor;
4. instructional evaluation of James E. Walsh;
5. performance appraisal evaluation report of James E. Walsh;
6. self evaluation of James E. Walsh;
7. documented warnings to James E. Walsh;
8. form PF800-233 (counseling record) of James E. Walsh;
9. minutes of any meeting of persons authorized to make decisions regarding the renewal of James E. Walsh's employment contract;
10. communications regarding recommendations regarding the renewal of James E. Walsh's employment contract; and

11. communications regarding recommendations regarding James E. Walsh, other than original employment documents found in Mr. Walsh's personnel file.

You assert that this information has been released with the exception of information which would tend to reveal the identities of students. You seek to withhold information under section 552.114 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

The Family Educational Rights and Privacy Act of 1974 ("FERPA") provides that no federal funds will be made available under any applicable program to an educational agency or institution that releases personally identifiable information (other than directory information) contained in a student's education records to anyone but certain enumerated federal, state, and local officials and institutions, unless otherwise authorized by the student's parent. *See* 20 U.S.C. § 1232g(b)(1). "Education records" means those records that contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for such agency or institution. *Id.* § 1232g(a)(4)(A). This office generally applies the same analysis under section 552.114 and FERPA. Open Records Decision No. 539 (1990).

Section 552.114 excepts from disclosure student records at an educational institution funded completely or in part by state revenue. Section 552.026 provides as follows:

This chapter does not require the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, Sec. 513, Pub. L. No. 93-380, 20 U.S.C. Sec. 1232g.

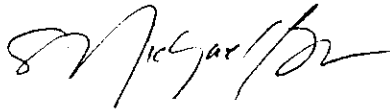
In Open Records Decision No. 634 (1995), this office concluded that (1) an educational agency or institution may withhold from public disclosure information that is protected by FERPA and excepted from required public disclosure by sections 552.026 and 552.101 without the necessity of requesting an attorney general decision as to those exceptions, and (2) an educational agency or institution that is state-funded may withhold from public disclosure information that is excepted from required public disclosure by section 552.114 as a "student record," insofar as the "student record" is protected by FERPA, without the necessity of requesting an attorney general decision as to that exception.

Information must be withheld from required public disclosure under FERPA only to the extent "reasonable and necessary to avoid personally identifying a particular student." *See* Open Records Decision Nos. 332 (1982), 206 (1978). We have marked the types of information that may reveal or tend to reveal information about a student that must be withheld pursuant to FERPA. Additionally, the district must withhold in their entirety all

handwritten documents created by students. *See* Open Records Decision No. 224 (1979) (student's handwritten comments would make identity of student easily traceable and such comments are therefore excepted by statutory predecessor to section 552.114).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,

A handwritten signature in black ink, appearing to read "Michael Jay Burns".

Michael Jay Burns
Assistant Attorney General
Open Records Division

MJB/nc

Ref: ID# 128666

Encl. Submitted documents

cc: Dr. William J. Campion
El Paso Community College
P.O. Box 205000
El Paso, Texas 79998
(w/o enclosures)

Mr. James Walsh
509 Cross Timbers Court
El Paso, Texas 79912
(w/o enclosures)